IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

O R D E R

Brij Lal Vs. State of Rajasthan

S.B.CR. MISC. PETITION NO.1741/2007

DATE OF ORDER :: December 07, 2007

PRESENT

HON'BLE MR.JUSTICE H.R.PANWAR

Mr.Rakesh Matoria for the petitioner
Mr.Ashok Upadhyay,P.P. For the State

BY THE COURT:

Notice for final disposal has been accepted by the learned Public Prosecutor for the State. With the consent of the learned counsel for the parties, the petition is heard and being decided at the admission stage.

Heard learned counsel for the petitioner as well as the public prosecutor for the State. Perused the order impugned.

By the instant cr. misc. petition under section 482 Cr.P.C., the petitioner seeks interim custody of the tractor-trolley

bearing No.RJ-13-1R-4897, which was seized by the police along with 11 trees of Khejri.

The tractor and the trolley attached therewith noticed above was seized by the police while it was transporting 11 big trees of Khejri in violation of section 41 and 42 of the Rajasthan Forest Act, 1953 (for short `the Act' hereinafter). The petitioner moved an application before the Additional Chief Judicial Magistrate, Raisinghnagar, Distt. Sri Ganganagar (for short `the trial court' hereinafter) seeking interim custody of the said tractor on "Supurdaginama". By order impugned dt. 4.3.2006, the trial court released the tractor on "Supurdaginama" for a sum of Rs.50,000/- with a bank guarantee of like amount. Aggrieved by the order impugned to the extent directing to furnish bank guarantee, the petitioner has filed the instant cr. misc. petition.

From perusal of the order impugned, it appears that without there being any transit permit, in violation of section 41 and 42 of the Act, the petitioner was found transporting 11 big green trees of Khejri.

Keeping in view the decision of Hon'ble Supreme Court in State of Karnataka vs. K.Krishnan, (2000) 7 SCC 80, the trial

court was justified in directing to furnish the bank guarantee in the peculiar facts and circumstances of the case more particularly keeping in view the huge quantity of forest produce "Khejri" as has been held to be a timber as defined under section 2(8) of the Act by a Division Bench of this Court in Suo Moto Vs. Principle, Chief Conservator Forest, Jaipur & Ors., 2004 (4) WLC (Raj.), 519. In this view of the matter, in my view, it cannot be said that the order impugned would result in serious miscarriage of justice or abuse of process of any court warranting interference in inherent jurisdiction.

The criminal misc. petition is, therefore, dismissed.

(H.R. PANWAR),J.

m.asif/-